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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,472	06/02/2000	Michiaki Sakamoto	157330/99	6609
21254	7590	10/18/2004	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			RUDE, TIMOTHY L	
		ART UNIT		PAPER NUMBER
				2883

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/585,472	SAKAMOTO, MICHIAKI
	<b>Examiner</b>	<b>Art Unit</b>
	Timothy L Rude	2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 24 August 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-12, 15-18 and 21-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 1-12, 15-18 and 21-23 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date, \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## DETAILED ACTION

### ***Claims***

Claims 13, 14, 19, and 20 are canceled. Claims 1, 2, 6, 7, 11, 12, 15, 17, 18, and 21 are amended. Claim 23 is added.

### ***Election/Restrictions***

Applicant's arguments during the interview of 23 August 2004 and in the letter received 24 August 2004 coupled with numerous claim amendments, and the addition of claim 23 make the claimed method no longer obvious in view of the claimed device structure. It is presently clear that the method steps are now distinct from the device.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12 and 15-16, drawn to an active matrix liquid crystal display device with particular color filter design, classified in class 349, subclass 106.
- II. Claims 17, 18, and 21-23, drawn to a method of manufacturing an active matrix liquid crystal display device with particular color filter formation steps, classified in class 349, subclass 187.

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the

process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case (1), the process as claimed can be used to make an electrochromic display, and (2), the product can be made by preselecting a second thickness to allow a contact hole to be formed with a fine pattern without regard for first thickness chromaticity, and a color density of the color filter can be selected to provide the desired chromaticity at the first thickness.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Invention I contains the following patentably distinct species of the claimed invention:

Species A, drawn to an active matrix liquid crystal display device with particular color filter design comprising a second color filter thickness that allows a contact hole to be formed with a fine pattern.

Species B, drawn to an active matrix liquid crystal display device with particular color filter design comprising a second color filter thickness that permits complete photo-crosslinkage in a contact hole.

Species C, drawn to an active matrix liquid crystal display device with particular color filter design comprising a second color filter thickness that allows etching without damage to the overcoat layer.

Invention II contains the following patentably distinct species of the claimed invention:

Species D, drawn to a method of manufacturing an active matrix liquid crystal display device with particular color filter formation steps comprising formation of a second color filter thickness that allows a contact hole to be formed with a fine pattern.

Species E, drawn to a method of manufacturing an active matrix liquid crystal display device with particular color filter formation steps comprising formation of a second color filter thickness that permits complete photo-crosslinkage in a contact hole.

Species F, drawn to a method of manufacturing an active matrix liquid crystal display device with particular color filter formation steps comprising formation of a second color filter thickness that allows etching without damage to the overcoat layer.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species from A-C of Invention I or elect a single disclosed species from D-F of Invention II for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are considered generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L Rude whose telephone number is (571) 272-2301. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



tlr

Timothy L Rude  
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